THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION Nos. 7018 of 1993 and 4793 OF 1998

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COMMON ORDER:

As these two Writ Petitions are inter related, they are heard together and disposed of by this common order.

On the ground that the respondents are interfering with the construction of house in plot No. 12/A admeasuring 244 Square yards, situated in Sy.No. 675/A, 677 and 691/A of Raghavendra Nagar, Malkajgiri, Ranga Reddy District, the petitioner has filed Writ Petition No. 7018 of 1993. There was interim direction to the respondents not to interfere with the construction of the petitioner. Subsequently, respondent-Municipality, referring the interim order of this Court, issued notice in proceedings No.2/I/MM/1993, dated 5-2-1998. Questioning the same, the petitioner has filed Writ Petition No. 4793 of 1998.

It is the case of the respondent-Municipality, that constructions are made in the open area, which was left for park; as such, constructions are illegal. It is the further case of the respondent-Municipality, that pursuant to the interim order of this Court passed in Writ Petition No. 7018 of 1993 for demolition, explanation was called from the petitioner while issuing notice dated 5-2-1998.

Notice dated 5-2-1998 issued to the petitioner is in the nature of show cause notice directing the petitioner to vacate the house so as to demolish the same in view of the orders passed by this Court in the earlier Writ Petition. But, there is no such direction passed by this Court in the earlier writ petition for demolition of the house. It is the case of the petitioner, that the constructions, which are made, are out side the lay out; as such, the same cannot be construed as open space within the layout. The notice dated 5-2-1998 issued to the petitioner is only a show cause notice calling for explanation. But, however, the observation of the respondent in the show cause

notice, that there was a direction from this Court in the earlier Writ Petition to demolish the house, is not correct. If the petitioner files explanation, the same has to be considered independently, because, the order passed by this Court, earlier, is only in the nature of ad-interim order, and, the same cannot be construed as direction for demolition of the house.

In that view of the matter, I dispose of the Writ Petition, permitting the petitioner to file explanation, to the notice dated 5-2-1998 within a period of three weeks from the date of receipt of this order. On such filing of the explanation, the respondent is directed to consider the same independently, without reference to the earlier orders of this Court. It is further clarified that the earlier order of this Court cannot be construed as direction for demolition of the house, while considering the explanation of the petitioner.

Subject to the above direction, the Writ Petitions are disposed of. No order as costs.

JUSTICE R. SUBHASH REDDY

DATED: 23--09--2005.

Note: Issue cc in three days.

(BO) Msnr